

## Message Text

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ACTION HA-05

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PM-05 H-01 INR-10 L-03 NSAE-00 NSC-05 PA-01

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FM AMEMBASSY MBABANE

TO SECSTATE WASHDC 4335

INFO AMEMBASSY GABORONE

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E.O. 11652: N/A

TAGS: SHUM, WZ

SUBJECT: SWAZILAND GOVERNMENT COMMENTS ON DEPARTMENT'S HUMAN RIGHTS REPORT

REF: MBABANE A-12

1. ON MARCH 30 EMBASSY RECEIVED GOS RESPONSE TO DEPARTMENT'S HUMAN RIGHTS REPORT ON SWAZILAND. TEXT OF SIX-PAGE "COMMENTS AND OBSERVATIONS" IS BEING POUCHED UNDER COVER OF REPAIR.

2. AS EXPECTED, GOS PAPER IS BASICALLY A LOW-KEY REJECTION OF SOME CHARGES MADE BY DEPARTMENT AND DEFENSE OF OTHERS. ALTHOUGH CONTAINING SOME EQUIVOCAL LANGUAGE, PAPER PROVIDES USEFUL CLARIFICATION ON CERTAIN ISSUES, INCLUDING THE FOLLOWING, WHICH SHOULD BE TAKEN INTO ACCOUNT IN NEXT EDITION OF HUMAN RIGHTS REPORT:

A. WHILE TRUE THERE IS NO CONSTITUTION, KING'S PROCLAMATION OF APRIL 12, 1973 PROVIDES THAT "ALL LAWS WITH THE EXCEPTION OF THE CONSTITUTION HEREBY REPEALED, SHALL CONTINUE TO OPERATE WITH FULL FORCE AND EFFECT AND SHALL BE CONSTRUED WITH SUCH MODIFICATIONS, ADAPTATIONS AND QUALIFICATIONS AND EXCEPTIONS

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AS MAY BE NECESSARY TO BRING THEM IN CONFORMITY WITH THIS AND ENSUING DECREES." PAPER ADDS THAT "ALL JUDGES AND OTHER JUDICIAL OFFICERS, GOVERNMENT OFFICIALS, PUBLIC SERVANTS, ETC., WERE TO CONTINUE IN OFFICE, AND PERSONS WHO HAD HELD OFFICE AS PRIME MINISTER, DEPUTY PRIME MINISTER, MINISTER, MINISTER OF STATE, ASSISTANT MINISTER, SECRETARY TO THE CABINET AND ATTORNEY GENERAL WERE TO CONTINUE IN OFFICE AT THE DISCRETION OF THE KING.

THE ATTORNEY GENERAL WAS AGAIN VESTED WITH THE DUTIES AND POWERS IMPOSED ON AND GRANTED TO HIM UNDER THE REPEALED CONSTITUTION AND HIS INDEPENDENCE AS SUCH WAS LIKEWISE REAPPROVED."

B. PAPER POINTS OUT THAT "THERE IS NO SUCH THING AS "1973 SECURITY ACT," WHICH SHOULD INSTEAD BE DESCRIBED AS "KING'S PROCLAMATION OF APRIL 12, 1973."

C. PAPER OBJECTS TO STATEMENT THAT "SWAZILAND DOES NOT PERMIT TRADE UNIONS." IT CITES "TRADE UNIONS AND EMPLOYERS' ORGANIZATIONS ACT OF 1966" AND ADDS THAT THERE ARE "SEVERAL TRADE UNIONS FUNCTIONING IN SWAZILAND." PAPER AVOID QUESTION OF HOW EFFECTIVE THE UNIONS ARE ALLOWED TO BE AND WHAT HANDICAPS THEY ARE UNDER. FOR EXAMPLE, IN 1977 DEPUTY PRIME MINISTER PERSONALLY CONCURRED IN GOS' FORBIDDING LABOR LEADER TO ACCEPT CU GRANT.

D. PAPER OBJECTS TO TERMS "TRIBAL INSTITUTIONS" AND "TRIBAL COUNCILS." IT DESCRIBES TINKHUNDLA AS "COMMUNAL COUNCILS."

3. PAPER MAKES FOLLOWING DUBIOUS ASSERTIONS:

A. CONCERNING THE FOUR PROMINENT DETAINEES AT TIME OF DEPARTMENT'S REPORT, IT WAS "FELT THAT THE TRIAL OF THE COMPLIANT AGAINST THE PERSON CONCERNED WOULD BE HARMFUL TO THE BEST INTERESTS OF THE STATE OR NOT CONDUCIVE TO ITS WELL-BEING." IN OUR VIEW, IT IS LIMITED OFFICIAL USE

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DIFFICULT TO ACCEPT THIS CHARACTERIZATION IN THE CASE OF ANY OF THE FOUR DETAINEES.

B. "WHERE CORRUPTION IS DISCOVERED THE POLICE INEVITABLY TAKE ACTION." THIS IS WIDELY BELIEVED NOT TO BE THE CASE, IF "ACTION" MEANS ACTION EVEN AGAINST HIGH-LEVEL OFFICIALS.

C. RE NEPOTISM, "BY AND LARGE IT IS MERIT, EFFICIENCY AND LOYALTY WHICH ARE THE MAIN FACTORS IN THE ADVANCEMENT OF INDIVIDUALS." WE COULD ACCEPT THIS FORMULATION ONLY IF UNDUE WEIGHT WERE PLACED ON THE LAST-NAMED QUALITY, I.E., LOYALTY.

D. ON ISSUE OF DIVERSION OF RESOURCES FROM RURAL POOR MAJORITY, PAPER ASSERTS THAT "AS A RESULT OF GOVERNMENT PLANNING AND FINANCING THE LOT OF THE RURAL POPULATION HAS CONSIDERABLY AMELIORATED SINCE INDEPENDENCE." BELIEVE FAIRER TO SAY THAT GOVERNMENT HAS SET ITS SIGHTS ON CAPITAL-INTENSIVE SCHEMES, LEAVING EXTERNAL DONORS TO FUND USUALLY LARGE SHARE OF RURAL-ORIENTED ACTIVITIES.

E. "THE FREEDOM TO EMIGRATE IS NOT RESTRICTED BY ANY LAW IN SWAZILAND." WHILE PROBABALY TECHNICALLY TRUE, THIS DOES NOT EXPLAIN WHY A SWAZI WHO IS NOT IN DETENTION OR REQUIRED FOR COURT

APPEARANCE CAN STILL BE DENIED A PASSPORT, WHICH WE UNDERSTAND  
HAS HAPPENED.

4. EMBASSY INTENDS TO DISCUSS THE REPORT WITH ATTORNEY GENERAL  
AND WILL REPORT FURTHER ON ANY OTHER ITEMS OF FACT THAT SHOULD BE  
ADDRESSED IN NEXT EDITION OF DEPARTMENT'S REPORT.  
WACHOB

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